



## COMMODITY FUTURES TRADING COMMISSION

### Privacy Act of 1974; System of Records

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of a new system of records.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC or Commission) is establishing a new system of records, CFTC-57, Reasonable Accommodations Records, to receive, track, process, and report on requests for reasonable accommodations.

**DATES:** In accordance with 5 U.S.C. 552(e)(4) and (11), this notice will go into effect without further notice on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] unless otherwise revised pursuant to comments received. All routine uses will go into effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified as pertaining to “CFTC-57, Reasonable Accommodations Records,” by any of the following methods:

- *CFTC Comments Portal:* <https://comments.cftc.gov>. Select the “Submit Comments” link for this notice and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, be accompanied by an English translation. Comments will be posted as received to <https://comments.cftc.gov>. You should submit only information that you wish to make available publicly.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from <https://comments.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of this notice will be retained in the comment file and will be considered as required under all applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Charles Cutshall, Chief Privacy Officer, [privacy@cftc.gov](mailto:privacy@cftc.gov), 202-418-5833, Legal Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** Federal agencies are required by law to provide reasonable accommodations and personal assistance services to qualified employees and applicants. Reasonable accommodations can apply to the duties of the job and/or where and how job tasks are performed. Reasonable accommodations may include, but are not limited to: Making existing facilities readily accessible to individuals with disabilities; restructuring jobs, modifying work schedules or places of work (i.e., telework), and providing flexible scheduling for medical appointments or religious observance; acquiring or modifying equipment or examinations or training materials; providing accessible technology or other workplace adaptive equipment; providing qualified readers and interpreters, personal assistants, service animals; granting permission to wear religious dress, hairstyles, or facial hair or to observe a religious prohibition against wearing certain garments; considering requests for medical and

religious exemptions to specific workplace requirements; and making other modifications to workplace policies and practices.

**SYSTEM NAME AND NUMBER:**

Reasonable Accommodations Records—CFTC-57.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

This system is maintained by the Chief Human Capital Officer in the Commission's office at Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Records may also be located at the regional offices in Chicago, Illinois; Kansas City, Missouri; and New York, New York.

**SYSTEM MANAGER(S):**

Chief Human Capital Officer, Human Resources Branch of the Division of Administration, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Email is *WorkforceRelations@cftc.gov*.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Rehabilitation Act of 1973, sections 501 and 504, Pub. L. No. 93-112, as amended; the Americans with Disabilities Act (ADA) of 1990, Pub. L. No. 101-336 (1990), as amended by the ADA Amendments Act of 2008 (ADAA), Pub. L. No. 110-325 (2009); Title VII of the Civil Rights Act of 1964, Pub. L. No. 88-352, as amended; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion), Executive Order 13164 (July 28, 2000); Executive Order 13548 (July 26, 2010); and Executive Order 14043 (September 9, 2021).

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to receive, track, process, and report the processing of requests for reasonable accommodations and for personal assistance services. It

maintains records from qualified employees and applicants with disabilities, as defined by the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as amended by the Americans with Disabilities Amendments Act of 2008, and records from employees with targeted disabilities who request or receive personal assistance services. It also maintains records received from employees who request or receive accommodations under Title VII of the Civil Rights Act of 1964.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals covered by the system include job applicants seeking employment with the CFTC and CFTC employees who request or receive reasonable accommodations under the Rehabilitation Act of 1973, Pub. L. No. 93-112, as amended, the Americans with Disabilities Act of 1990, Pub. L. No. 101-336 (1990), as amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAA), and Title VII of the Civil Rights Act of 1964, Pub. L. No. 88-352, as amended. It covers CFTC employees with targeted disabilities who request personal assistance services, as required by the Rehabilitation Act of 1973, Pub. L. No. 93-112, as amended. It also covers individuals or representatives (e.g., a family member or attorney) authorized to request reasonable accommodations on behalf of an applicant for employment or employee.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Information about the individual who requires reasonable accommodations and the job for which they are either an applicant or employed includes:

- First, middle, and last name of the individual who requires the accommodation;
- Address, phone number, and email address of the person who requires the accommodation;
- Job (occupational series, grade level, and office) for which reasonable accommodations was requested; and,
- Date of request.

Information about the nature of the disability and/or need for reasonable accommodations includes:

- Medical documentation provided by the requester or at the requestor's direction or request (e.g., by a representative or the individual's healthcare provider) as required to substantiate an individual's disability or need to care for themselves or a family member;
- Information about a requestor's religious beliefs, provided by the requestor in support of a request for accommodation; and
- Type(s) of accommodation(s) requested or received.

Information associated with the receipt and adjudication of requests for reasonable accommodations includes:

- Request approvals and denial notices;
- Forms, correspondence, records of oral conversations, and supporting notes and documentation associated with an informal dispute resolution or appeal processes;
- Expense(s) information associated with the requested accommodation;
- Whether an accommodation requested or provided occurred pre-employment or during employment; and
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation.

#### **RECORD SOURCE CATEGORIES:**

Information is obtained from applicants and employees; an individual's licensed healthcare professional, religious or spiritual advisors or institutions, and from management officials; and authorized individuals or representatives (e.g., family member or attorney) who request reasonable accommodations and/or receive a reasonable accommodations or other appropriate modification from CFTC on behalf of an applicant or employee.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(1) Information may be disclosed to the Department of Justice or other federal entity, the Merit Systems Protection Board, the Office of Special Counsel, or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, or in the course of civil discovery, litigation, or settlement negotiations, in actions authorized under the Commodity Exchange Act and otherwise authorized, when:

- a. The agency, or any component thereof; or
- b. Any employee of the agency in their official capacity; or
- c. Any employee of the agency in their personal capacity where the Department of Justice or the agency has agreed to represent the employee; or
- d. The United States, when the litigation is likely to affect the CFTC or any of its components;

Is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed to be relevant and necessary to the litigation.

(2) To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations;

(3) To another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the

Commission is a party to the judicial or administrative proceeding where the information is relevant and necessary to the proceeding;

(4) To contractors, performing or working on a contract for the Commission when necessary to accomplish an agency function;

(5) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) To appropriate agencies, entities, and person when (1) the CFTC suspects or has confirmed that there has been a breach of the system of records; (2) the CFTC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the CFTC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFTC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(7) To another Federal agency or Federal entity, when the CFTC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(8) To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(9) To medical personnel to meet a bona fide medical emergency; and

(10) To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly

authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee.

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system of records are stored electronically or on paper in secure facilities. Electronic records are stored on the Commission's secure network.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information covered by this system of records notice may be retrieved by the name of the individual.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

In accordance with NARA General Records Schedule (GRS) 2.3 (Employee Relations Records) item 20 (Reasonable accommodations case files). Disposition Authority: DAA-GRS-2018-0002-0002. Disposition Instruction: Temporary. Destroy three (3) years after employee separation from the agency or all appeals are concluded whichever is later, but longer retention is authorized if required for business use.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Medical and religious exemptions documentation supporting a reasonable accommodations request will be maintained in a confidential file separate and apart from the requestor's Official Personnel Folder or Employee Performance File. Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures.

Technical security safeguards within CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many CFTC network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular



review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

#### **RECORD ACCESS PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to the Legal Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. *See* 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

#### **CONTESTING RECORD PROCEDURES:**

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Legal Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. *See* 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

#### **NOTIFICATION PROCEDURES:**

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Legal Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. *See* 17 CFR 146.3 for full details on what to include in a Privacy Act notification request.

#### **EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

#### **HISTORY:**

None.

Issued in Washington, DC, on December 3, 2021, by the Commission.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

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